

FILED

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Oklahoma

AUG - 6 2019

PATRICK KEANEY
Clerk, U.S. District CourtBy _____
Deputy Clerk10th Division

CIV 19-250-Raw

KEMP, DeWayne # 662670

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Case No.

(to be filled in by the Clerk's Office)

FILED

AUG - 6 2019

PATRICK KEANEY
Clerk, U.S. District CourtBy _____
Deputy Clerk

MS. Cristin

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

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Defendant No. 3

Name	<hr/>		
Job or Title (<i>if known</i>)	<hr/>		
Shield Number	<hr/>		
Employer	<hr/>		
Address	<hr/>		
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
	<input type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity		

Defendant No. 4

Name	<hr/>		
Job or Title (<i>if known</i>)	<hr/>		
Shield Number	<hr/>		
Employer	<hr/>		
Address	<hr/>		
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
	<input type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity		

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- Federal officials (a *Bivens* claim)
 State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

1 of 2

Statement of Claim / FACTS!

Tuesday, July 9, 2019 sometime after 6:00pm Count at DCF Ms. Cristin / Nurse came to my cell door # 106 on FD to give me / DeWayne E. Kemp My Psych-Medication due to the fact I hear voices & see things. The original medication that I (DeWayne Kemp) been taking is a blue cap pill, but on July 9, 2019 Ms. Cristin gave me Two (2) little white pills. I was thinking the doctor change my medication, so I (DeWayne Kemp) took the pills in "hope" they will help me with the voices in my head. The medication / little white pills made me feel like I was going to die. And it didn't help me with the voices in my head. Instead the voices told me I was going to die. Wednesday, July 10, 2019 on FD # 106 Ms. Cristin came to give me my medication again and it was the same two (2) little white pills. So I kept them for evidence, I just kept the pills in the little cup she had them in.

Thursday, July 11, 2019 Ms. Cristin / Nurse at DCF on FD # 106 came once again to give me my medication, but this time it was my original blue cap pill that I been taking so I kept it for evidence as well. Just like the Two (2) little white pills. Its NO-WAY Ms. Cristin can say she didn't give me the white pills due to the "FACT" She don't do her job when it come down.

to flossing out serious medication because she is suppose to make you take your medicine, watch you take it, and check your mouth the whole 9 etc. As the courts see these pills have not been wet from beening in my mouth NONE-WHAT-SO-EVER and I will like them to be book into my evidence file please. She just hand you the pills and go on about her business.

20F2

Somebody, NOT ME, but Somebody could save up their pills & O.D. due to the fact the way Ms. Cristin / nurse pass out serious medication. I (Dewayne Kemp) stop taking my medication because I feel like a experience they are working on and the little white pills that I don't know what they is made me feel like I was going to (DIE). & I was NEVER suppose to get hold of them. I need \$50,000.00 for what I was feeling and experience on them two (2) little white pills Ms. Cristin / nurse gave me! P.s.

Also the courts can get access to the camera footage.

PAYMENT PLAN.

I (Dewayne Kemp) already have a lawsuit pending...
 Kemp V. Canada Case # 6:19-cv-00196-JHP-SPS.
 with that much said I ask the courts to take the first
 pay for the filing fee out of my prison saving account for
 Kemp V. Cristin lawsuit to get filed. Then after that
 I get gang-pay every month which come up to \$11.50.00
 My funds are low at the moment so out of my gang pay every
 month I (Dewayne Kemp) can pay \$5.75 every month on both
 lawsuits into I pay the full amount & every time I receive money
 from friends and family members the courts can take their percent
 out of it for both lawsuits once again into I pay the full cost on
 both lawsuits. ONE of the reason why I didn't want to
 file this new lawsuit Kemp V. Cristin is because I
 don't want the courts to overlook me because I don't have
 the funds at the moment to pay for the filing fee. I almost
 lost my life or was feeling like I was from taking them white
 pills Ms. Cristin gave me. So that's why I ask the courts to show
 mercy on me by taking the first pay out of my prison
 savings account. May God Continue to bless!

~~Dewayne~~ Sincerely,
 Dewayne Kemp

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

See Attach Page

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See Attach Page

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- C. What date and approximate time did the events giving rise to your claim(s) occur?

see attach page please

-
- D. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

see attach page 1 of 2 please

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

mental health
problem's feeling like I was going to die.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I need \$50,000 for medications been placed in my hand when I was not suppose to get hold of them and when I took it, it messed up my brain and made me feel like I was going to die.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Def 6888 E. 133 Rd.
Holdenville, Okla 74848

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

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D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (*Describe all efforts to appeal to the highest level of the grievance process.*)

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Because I didn't know if I had to or not.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

None

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

The medications inside the bag
is my exhibits.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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Yes

No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) KEMP #662676

Defendant(s) MS. Gunuly

2. Court (*if federal court, name the district; if state court, name the county and State*)

Eastern District Court

3. Docket or index number

4. Name of Judge assigned to your case

JAMES H. WAYNE

5. Approximate date of filing lawsuit

6.24.2014

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

Still Pending.

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7-26-2019

Signature of Plaintiff

Dewayne Hemp

Printed Name of Plaintiff

KEMP DEWAYNE

Prison Identification #

662670

Prison Address

6888 E 133RD

Holdenville

City

OKLA

State

74848

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address
